

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

BENJAMIN RAMEY, LOURDES BURGOS,
and TYLER THOMSON, *on behalf of*
themselves and all others similarly situated,

Plaintiff,

v.

THE PENNSYLVANIA STATE
UNIVERSITY,

Defendant.

Case No. 2:20-cv-00753-RJC

**DEFENDANT PENN STATE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFS
REGARDING DEFENDANT'S MOTION TO DISMISS**

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Plaintiffs ostensibly ask this Court to permit supplemental briefing, ECF Doc. 34, but in actuality they are hoping for a miracle. In the understatement of the century, Plaintiffs acknowledge that the three recent Pennsylvania decisions “share general similarities” with the arguments in Penn State’s Motion to Dismiss. *Id.* at 1. As the decisions themselves make clear, they share far more than “general similarities.” They are nearly identical to this case in every way—which makes sense, since the same lawyers filed them. The Western District and the Eastern District accepted arguments identical to those that Penn State has pressed here, and they rejected arguments identical to the arguments Plaintiffs raised here. And they did so while applying Pennsylvania law.

Plaintiffs’ assertion that these decisions “raise significant issues of Pennsylvania contract law” that “the parties have not fully addressed,” *id.* at 1–2, is incorrect and disingenuous. Plaintiffs do not (and cannot) identify a single issue or argument raised in these decisions not already addressed in the briefing on Penn State’s Motion to Dismiss. The truth is that these decisions straightforwardly vindicate Penn State’s position and eviscerate the Plaintiffs’ arguments. Plaintiffs do not have any new arguments to respond to, they just want *another* brief to take *another* stab at responding to the same arguments that have failed before every Pennsylvania-based court to examine them. There is, simply put, no need for further briefing; these decisions are clear and speak for themselves. And what they unequivocally say is that Penn State’s Motion to Dismiss should be granted.

If the Court nevertheless chooses to grant Plaintiffs additional briefing, Penn State requests the opportunity to respond to Plaintiffs’ new submission. Penn State already made its arguments in briefing its Motion to Dismiss, and these recent decisions are so clear that they do not require further exposition. If Plaintiffs nevertheless obtain an additional brief, Penn State should be able to respond to whatever arguments Plaintiffs concoct.

Dated: April 28, 2021

Respectfully submitted,

/s/ Aaron Healey

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Opposition to Plaintiffs' Motion for Leave to File Supplemental Briefs Regarding Defendant's Motion to Dismiss was filed on April 28, 2021, via the Court's electronic filing system, which will deliver copies of the filings to counsel of record.

/s/ Aaron Healey

Aaron Healey